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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518-3398-01]

RIN 0648-XF815

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2017 Commercial Accountability Measure and Closure for Gulf
Gray Triggerfish**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures for commercial gray triggerfish in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) through this temporary rule. NMFS projects commercial landings for gray triggerfish will reach the commercial annual catch target (ACT) (commercial quota) by November 18, 2017. Therefore, NMFS is closing the commercial sector for gray triggerfish in the Gulf EEZ on November 18, 2017. This closure is necessary to protect the gray triggerfish resource.

DATES: This rule is effective 12:01 a.m., local time, November

18, 2017, until January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS
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SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf includes gray triggerfish and is managed under the Fishery Management Plan for Reef Fish Resources of the Gulf (FMP). The FMP was prepared by the Gulf Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All gray triggerfish weights discussed in this temporary rule are in round weight.

On August 4, 2008, NMFS established gray triggerfish accountability measures as well as commercial quotas for gray triggerfish through Amendment 30A to the FMP (73 FR 38139). On May 9, 2013, NMFS issued a final rule to implement Amendment 37 to the FMP (78 FR 27084). In part, Amendment 37 revised gray triggerfish commercial annual catch limits (ACLs) and ACTS.

Under 50 CFR 622.41(b)(1), NMFS is required to close the commercial sector for gray triggerfish when the commercial quota is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal

Register. NMFS has determined that the commercial quota for Gulf gray triggerfish of 60,900 lb (27,624 kg) will be reached by November 18, 2017. Accordingly, the commercial sector for Gulf gray triggerfish is closed effective 12:01 a.m., local time, November 18, 2017, until the start of the next commercial fishing season on January 1, 2018.

The operator of a vessel with a valid commercial vessel permit for Gulf reef fish having gray triggerfish onboard must have landed and bartered, traded, or sold such gray triggerfish prior to 12:01 a.m., local time, November 18, 2017. During the closure, the sale or purchase of gray triggerfish taken from the Gulf EEZ is prohibited. The prohibition on the sale or purchase does not apply to gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, November 18, 2017, and were held in cold storage by a dealer or processor.

The recreational sector for gray triggerfish is also closed through December 31, 2017. Therefore all harvest or possession of gray triggerfish is prohibited until the start of the new fishing year (50 CFR 622.39(b)). The commercial and recreational sectors for gray triggerfish will reopen on January 1, 2018, the beginning of the 2018 gray triggerfish

fishing year.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of gray triggerfish and the Gulf reef fish fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(b)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The NOAA Assistant Administrator for Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the final rule implementing Amendment 37 (78 FR 27084; May 9, 2013), which established the

closure provision for commercial gray triggerfish, have already been subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect gray triggerfish since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 7, 2017.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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